

Executive Summary – Enforcement Matter – Case No. 53664

THE BURKE FOUNDATION

RN108344714

Docket No. 2016-2025-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Burke Center for Youth, 20800 West Farm-to-Market Road 150 near Dripping Springs, Hays County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 31, 2017

Comments Received: No

Penalty Information

Total Penalty Assessed: \$3,644

Total Paid to General Revenue: \$3,644

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 31, 2016 through November 18, 2016

Date(s) of NOE(s): November 18, 2016

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RN108344714
Docket No. 2016-2025-PWS-E

Violation Information

1. Failed to collect a routine distribution water sample for coliform analysis and failed to issue public notification and submit a copy of the public notification to the Executive Director (“ED”) regarding the failure to collect a routine distribution water sample for coliform analysis [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A) and (f), and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to collect a set of repeat distribution total coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample [30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
3. Failed to collect five routine distribution coliform samples during the month following the total coliform-positive sample result and failed to issue public notification and submit a copy of the public notification to the ED regarding the failure to collect five routine distribution coliform samples during the month following a total coliform-positive sample result [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A) and (f)].
4. Failed to submit a Disinfectant Level Quarterly Operating Report (“DLQOR”) to the ED by the tenth day of the month following the end of each quarter and failed to issue public notification and submit a copy of the public notification to the ED regarding the failure to submit a DLQOR [30 TEX. ADMIN. CODE §§ 290.110(e)(4)(A) and (f)(3) and 290.122(c)(2)(A) and (f)].
5. Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the ED [30 TEX. ADMIN. CODE § 290.117(c)(2)(A), (h), and (i)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Begin complying with applicable coliform monitoring requirements by conducting routine coliform monitoring, collecting the required number of repeat distribution samples, collecting increased distribution coliform samples when required, and

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providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliant monitoring and reporting;

ii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs;

iii. Implement procedures to ensure that all necessary public notifications are issued in a timely manner to persons served by the Facility and a copy of each public notification is submitted to the ED;

iv. Issue public notification regarding the failure to submit a DLQOR for the fourth quarter of 2015, the failure to collect a routine distribution water sample for coliform analysis for the months of August 2015 through February 2016, and the failure to collect five routine distribution coliform samples during the month following a total coliform-positive sample result for the month July 2015, and provide a copy of each public notification to the ED;

v. Implement improvements to the Facility's process procedures, guidance, training, and oversight to ensure that all lead and copper tap samples are collected during the required sampling periods, analyzed, and reported to the ED; and

vi. Begin collecting the required number of lead and copper tap samples, have the samples analyzed, and report the results to the ED within ten days following the end of each monitoring period. This provision will be satisfied upon the timely delivery of all lead and copper tap sampling results to the ED for two consecutive compliant six-month monitoring periods.

b. Within 45 days, submit written certification of compliance with a.ii. through a.v.

c. Within 90 days, begin submitting DLQORs to the ED each quarter by the tenth day of the month following the end of the quarter. This provision will be satisfied upon two consecutive quarters of compliant reporting.

d. Within 225 days, submit written certification of compliance with a.i.

e. Within 285 days, submit written certification of compliance with c.

f. Within 410 days, submit written certification to demonstrate compliance with a.vi.

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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jason Fraley, Enforcement Division,
Enforcement Team 2, MC 169, (512) 239-2552; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

Respondent: Steven Fournier, Executive Director, THE BURKE FOUNDATION, P.O.
Box 40, Driftwood, Texas 78619-0040
David Peterson, President, THE BURKE FOUNDATION, P.O. Box 40, Driftwood, Texas
78619-0040

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES Assigned **21-Nov-2016**
PCW **1-Dec-2016** Screening **28-Nov-2016** EPA Due **31-Mar-2016**

RESPONDENT/FACILITY INFORMATION

Respondent **THE BURKE FOUNDATION**
Reg. Ent. Ref. No. **RN108344714**
Facility/Site Region **11-Austin** Major/Minor Source **Minor**

CASE INFORMATION

Enf./Case ID No. **53664** No. of Violations **5**
Docket No. **2016-2025-PWS-E** Order Type **Findings**
Media Program(s) **Public Water Supply** Government/Non-Profit **Yes**
Multi-Media Enf. Coordinator **Jason Fraley**
EC's Team **Enforcement Team 2**
Admin. Penalty \$ Limit Minimum **\$50** Maximum **\$1,000**

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 **\$1,850**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **97.0%** Adjustment Subtotals 2, 3, & 7 **\$1,794**

Notes Enhancement for nineteen NOVs with the same/similar violations and one NOV with dissimilar violations.

Culpability **No** **0.0%** Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 **\$0**

Economic Benefit **0.0%** Enhancement* Subtotal 6 **\$0**

Total EB Amounts **\$721**
Estimated Cost of Compliance **\$1,053**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal **\$3,644**

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0% Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$3,644**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$3,644**

DEFERRAL

0.0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$3,644

Screening Date 28-Nov-2016

Docket No. 2016-2025-PWS-E

PCW

Respondent THE BURKE FOUNDATION

Policy Revision 4 (April 2014)

Case ID No. 53664

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108344714

Media [Statute] Public Water Supply

Enf. Coordinator Jason Fraley

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	19	95%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 97%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for nineteen NOVs with the same/similar violations and one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 97%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 97%

Screening Date 28-Nov-2016
Respondent THE BURKE FOUNDATION
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Docket No. 2016-2025-PWS-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108344714

Media [Statute] Public Water Supply

Enf. Coordinator Jason Fraley

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A) and (f), and
Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect a routine distribution water sample for coliform analysis for the
months of August 2015 through March 2016 and failed to issue public notification
and submit a copy of the public notification to the Executive Director regarding the
failure to collect a routine distribution water sample for coliform analysis for the
months of August 2015 through February 2016.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix
Notes

Failure to collect routine distribution coliform samples and issue public notification may expose
persons served by the Facility to undetected contaminants which would exceed levels protective of
human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 8

213 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$1,200

Eight monthly events are recommended, one for each month a routine distribution water sample
wasn't collected.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

Notes

The Respondent does not meet the good faith criteria for
this violation.

Violation Subtotal \$1,200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$223

Violation Final Penalty Total \$2,364

This violation Final Assessed Penalty (adjusted for limits) \$2,364

Economic Benefit Worksheet

Respondent THE BURKE FOUNDATION
Case ID No. 53664
Reg. Ent. Reference No. RN108344714
Media Public Water Supply
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	31-Oct-2016	2-Sep-2017	0.84	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$35	10-Dec-2015	2-Sep-2017	1.73	\$3	n/a	\$3

Notes for DELAYED costs

The Record Keeping System cost includes the estimated amount to implement procedures to ensure that all necessary public notifications are issued in a timely manner, calculated from the record review date to the estimated date of compliance.

The Other (as needed) cost includes the estimated amount to ensure that all delinquent public notifications (\$5 per notification x seven notifications) are issued to persons served by the Facility and a copy of the public notification is provided to the Executive Director, calculated from the date the earliest public notification was due to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	1-Aug-2015	31-Mar-2016	1.58	\$16	\$200	\$216
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect a routine distribution coliform sample (\$25 per sample x one sample x eight months), calculated for the months the sampling was not conducted.

Approx. Cost of Compliance

\$335

TOTAL

\$223

Screening Date 28-Nov-2016
Respondent THE BURKE FOUNDATION
Case ID No. 53664

Docket No. 2016-2025-PWS-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108344714

Media [Statute] Public Water Supply

Enf. Coordinator Jason Fraley

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(3)(A)(ii) and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect a set of repeat distribution total coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample for the month of June 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect a set of repeat distribution coliform samples may expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

30 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$150

One monthly event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Estimated EB Amount \$100

Statutory Limit Test

Violation Final Penalty Total \$296

This violation Final Assessed Penalty (adjusted for limits) \$296

Economic Benefit Worksheet

Respondent THE BURKE FOUNDATION
Case ID No. 53664
Reg. Ent. Reference No. RN108344714
Media Public Water Supply
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	18-Jun-2015	19-Jun-2015	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect a set of repeat distribution coliform samples (\$25 per sample x four samples), calculated for the 24-hour period following the coliform-positive result.

Approx. Cost of Compliance \$100

TOTAL \$100

Screening Date 28-Nov-2016
Respondent THE BURKE FOUNDATION
Case ID No. 53664

Docket No. 2016-2025-PWS-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108344714

Media [Statute] Public Water Supply

Enf. Coordinator Jason Fraley

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(c)(2)(A) and (F)

Violation Description

Failed to collect five routine distribution coliform samples during the month following the total coliform-positive sample result for the month of July 2015 and failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect five routine distribution coliform samples during the month following a total coliform-positive sample result for the month July 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect routine distribution coliform samples and issue public notification may expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$150

One monthly event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$132

Violation Final Penalty Total \$296

This violation Final Assessed Penalty (adjusted for limits) \$296

Economic Benefit Worksheet

Respondent THE BURKE FOUNDATION
Case ID No. 53664
Reg. Ent. Reference No. RN108344714
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5	10-Nov-2015	2-Sep-2017	1.81	\$0	n/a	\$0

Notes for DELAYED costs

The Record Keeping System cost to implement procedures to ensure that all necessary public notifications are issued in a timely manner is captured in the Economic Benefit Worksheet for Violation No. 1.

The Other (as needed) cost includes the estimated amount to ensure that the delinquent public notification (\$5 per notification x one notification) is issued to persons served by the Facility and a copy of the public notification is provided to the Executive Director, calculated from the date the public notification was due to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$125	1-Jul-2015	31-Jul-2015	1.00	\$6	\$125	\$131
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect routine distribution coliform samples (\$25 per sample x five samples), calculated for the month the sampling was not conducted.

Approx. Cost of Compliance

\$130

TOTAL

\$132

Screening Date 28-Nov-2016
Respondent THE BURKE FOUNDATION
Case ID No. 53664

Docket No. 2016-2025-PWS-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108344714
Media [Statute] Public Water Supply
Enf. Coordinator Jason Fraley

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 290.110(e)(4)(A) and (f)(3) and 290.122(c)(2)(A) and (f)

Violation Description

Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director by the tenth day of the month following the end of each quarter for the third and fourth quarters of 2015 and the first and second quarters of 2016 and failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit a DLQOR for the fourth quarter of 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 4

365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$200

Four single events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$101

Violation Final Penalty Total \$394

This violation Final Assessed Penalty (adjusted for limits) \$394

Economic Benefit Worksheet

Respondent THE BURKE FOUNDATION
Case ID No. 53664
Reg. Ent. Reference No. RN108344714
Media Public Water Supply
Violation No. 4

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$145	31-Oct-2016	2-Sep-2017	0.84	\$6	n/a	\$6
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5	20-Apr-2016	2-Sep-2017	1.37	\$0	n/a	\$0

Notes for DELAYED costs

The Record Keeping System cost to implement procedures to ensure that all necessary public notifications are issued in a timely manner is captured in the Economic Benefit Worksheet for Violation No. 1.

The Training/Sampling cost includes the estimated amount to update the Facility's operational guidance, process procedures, and conduct employee training to ensure that the self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs, calculated from the record review date to the estimated date of compliance.

The Other (as needed) cost includes the estimated amount to ensure that the delinquent public notification (\$5 per notification x one notification) is issued to persons served by the Facility and a copy of the public notification is provided to the Executive Director, calculated from the date the public notification was due to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$88	10-Oct-2015	31-Oct-2016	1.98	\$9	\$88	\$97
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and submit DLQORs (\$22 per report x four missed reports), calculated from the date the report was due for the third quarter of 2015 to the record review date.

Approx. Cost of Compliance \$238

TOTAL \$101

Screening Date 28-Nov-2016
Respondent THE BURKE FOUNDATION
Case ID No. 53664

Docket No. 2016-2025-PWS-E

PCW

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108344714

Media [Statute] Public Water Supply

Enf. Coordinator Jason Fraley

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 290.117(c)(2)(A), (h), and (i)(1)

Violation Description

Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the Executive Director for the January 1, 2016 through June 30, 2016 monitoring period.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect lead and copper samples could expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

181 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	x
annual	
single event	

Violation Base Penalty \$150

One semiannual event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$165

Violation Final Penalty Total \$296

This violation Final Assessed Penalty (adjusted for limits) \$296

Economic Benefit Worksheet

Respondent THE BURKE FOUNDATION

Case ID No. 53664

Reg. Ent. Reference No. RN108344714

Media Public Water Supply
Violation No. 5

Percent Interest 5.0
Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	31-Oct-2016	2-Sep-2017	0.84	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
<p>The Record Keeping System delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future lead and copper samples are collected by the Facility's personnel, have the samples analyzed, and report the results to the Executive Director, calculated from the date of the record review to the estimated date of compliance.</p>							
Notes for DELAYED costs							
Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	1-Jan-2016	30-Jun-2016	1.41	\$11	\$150	\$161
Other (as needed)				0.00	\$0	\$0	\$0
<p>The avoided cost includes the estimated amount to collect and have analyzed the required lead and copper samples (\$30 per sample x five required samples x one monitoring period), calculated for the monitoring period in which sampling was required.</p>							
Notes for AVOIDED costs							

Approx. Cost of Compliance

\$250

TOTAL

\$165

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

Compliance History Report for CN604815928, RN108344714, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

Customer, Respondent, or Owner/Operator: CN604815928, THE BURKE FOUNDATION **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN108344714, Burke Center for Youth **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 20800 WEST FARM-TO-MARKET ROAD 150 NEAR DRIPPING SPRINGS, HAYS COUNTY, TEXAS

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1050181

Compliance History Period: September 01, 2011 to August 31, 2016 **Rating Year:** 2016 **Rating Date:** 09/01/2016

Date Compliance History Report Prepared: November 23, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 23, 2011 to November 23, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jason Fraley

Phone: (512) 239-2552

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 11/23/2015 (1371929)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: JUL/2015 TCR Increase MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct increase coliform monitoring for the month of 07/2015.

- 2 Date: 11/24/2015 (1294332)
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(c)
 30 TAC Chapter 290, SubChapter D 290.39(h)
 5A THSC Chapter 341, SubChapter A 341.035(a)
 Description: Burke Center for Youth failed to obtain approval for the well and public water system prior to commencing operation as a public water system.
 Per 30 TAC §290.39(h), no person may begin construction on a new public water system before receiving written approval of plans and specifications and, if required, approval of a business plan from the executive director.
- 3 Date: 01/11/2016 (1371929)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine MR Violation 10/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 4 Date: 01/20/2016 (1371929)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)
 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
 Description: DLQOR MR 3Q2015 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the third quarter of 2015 within the required timeline.
- 5 Date: 02/23/2016 (1371929)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine MR Violation 11/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: AUG/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 08/2015.
- 6 Date: 03/23/2016 (1371929)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine MR Violation 12/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 7 Date: 03/24/2016 (1371929)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: SEPT/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 09/2015.
- 8 Date: 03/30/2016 (1371929)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: OCT/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public

notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 10/2015.

- 9 Date: 04/08/2016 (1371929)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
Description: NOV/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 11/2015.
- 10 Date: 04/11/2016 (1371929)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)
 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: DLQOR MR 4Q2015 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2015 within the required timeline.
- 11 Date: 04/12/2016 (1371929)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 01/2016 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 12 Date: 05/17/2016 (1371929)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
Description: DEC/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 12/2015.
- 13 Date: 05/31/2016 (1371929)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 02/2016 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 14 Date: 06/17/2016 (1371929)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
Description: JAN/2016 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 01/2016.
- 15 Date: 07/12/2016 (1371929)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
Description: FEB/2016 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 02/2016.

- 16 Date: 07/14/2016 (1371929)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)
 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
 Description: DLQOR MR 1Q2016 - The system failed to monitor and/or report distribution
 disinfectant residuals to the TCEQ for the first quarter of 2016 within the required
 timeline.
- 17 Date: 07/15/2016 (1371929)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine MR Violation 03/2016 - Failure to collect and/or submit any routine
 monitoring sample(s) within the required timeline.
- 18 Date: 08/09/2016 (1371929)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.117(i)(1)
 Description: LCR IN MR 1st 6M2016 - The system failed to monitor and/or report distribution
 lead and copper levels to the TCEQ for the initial six-month monitoring period
 from 01/01/2016 to 06/30/2016 within the required timeline.
- 19 Date: 08/16/2016 (1371929)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: DLQOR MR PN 4Q2015 Posting and Reporting Violation - Failure to submit a
 signed certificate of delivery to the Executive Director certifying that public notice
 was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period
 that public notice was required for a disinfectant monitoring and reporting
 violation during the fourth quarter of 2015.
- 20 Date: 10/17/2016 (1371929)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)
 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
 Description: DLQOR MR 2Q2016 - The system failed to monitor and/or report distribution
 disinfectant residuals to the TCEQ for the second quarter of 2016 within the
 required timeline.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 11/23/2011 and 11/23/2016

- 1 Date: 05/28/2015 (1252998) Classification: Major
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter D 290.39(c)
 30 TAC Chapter 290, SubChapter D 290.39(h)
 5A THSC Chapter 341, SubChapter A 341.035(a)
- Description: Burke Center for Youth failed to obtain approval for the well and public water system prior to commencing operation as a public water system.
 Per 30 TAC §290.39(h), no person may begin construction on a new public water system before receiving written approval of plans and specifications and, if required, approval of a business plan from the executive director.
- 2* Date: 09/15/2015 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
- Description: TCR Repeat MR Violation 06/2015 - Failure to collect and/or submit any repeats following a coliform found result within the required timeline.
- 3* Date: 10/12/2015 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
- Description: TCR Increase MR Violation 07/2015 - Failure to collect and/or submit within the required timeline any of the 5 distribution samples following a coliform found month.
- 4* Date: 10/30/2015 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
- Description: TCR Routine MR Violation 08/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 5* Date: 11/12/2015 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
- Description: TCR Routine MR Violation 09/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 6* Date: 11/23/2015 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: JUL/2015 TCR Increase MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct increase coliform monitoring for the month of 07/2015.

Date: 11/24/2015 (1294332)

Classification: Major

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter D 290.39(c)
30 TAC Chapter 290, SubChapter D 290.39(h)
5A THSC Chapter 341, SubChapter A 341.035(a)

Description: Burke Center for Youth failed to obtain approval for the well and public water system prior to commencing operation as a public water system. Per 30 TAC §290.39(h), no person may begin construction on a new public water system before receiving written approval of plans and specifications and, if required, approval of a business plan from the executive director.

Date: 01/11/2016 (1371929)

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine MR Violation 10/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.

Date: 01/20/2016 (1371929)

Classification: **Moderate**

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(e)(5)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: DLQR MR 3Q2015 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the third quarter of 2015 within the required timeline.

Date: 02/23/2016 (1371929)

Classification: **Moderate**

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine MR Violation 11/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.

Classification: **Moderate**

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: AUG/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 08/2015.

Date: 03/23/2016 (1371929)

Classification: **Moderate**

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine MR Violation 12/2015 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.

Date: 03/24/2016 (1371929)

Classification: **Moderate**

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: SEPT/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public

notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 09/2015.

- 13* Date: 03/30/2016 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: OCT/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 10/2015.
-
- 14* Date: 04/08/2016 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: NOV/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 11/2015.
-
- 15* Date: 04/11/2016 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)
 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
- Description: DLQOR MR 4Q2015 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2015 within the required timeline.
-
- 16* Date: 04/12/2016 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
- Description: TCR Routine MR Violation 01/2016 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
-
- 17* Date: 05/17/2016 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: DEC/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 12/2015.
-
- 18* Date: 05/31/2016 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
- Description: TCR Routine MR Violation 02/2016 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.

- 19* Date: 06/17/2016 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: JAN/2016 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 01/2016.
-
- 20* Date: 07/12/2016 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: FEB/2016 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 02/2016.
-
- 21* Date: 07/14/2016 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(e)(5)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
- Description: DLQOR MR 1Q2016 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the first quarter of 2016 within the required timeline.
-
- 22* Date: 07/15/2016 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
- Description: TCR Routine MR Violation 03/2016 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
-
- 23* Date: 08/09/2016 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.117(i)(1)
- Description: LCR IN MR 1st 6M2016 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the initial six-month monitoring period from 01/01/2016 to 06/30/2016 within the required timeline.
-
- 24* Date: 08/16/2016 (1371929) Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: DLQOR MR PN 4Q2015 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the fourth quarter of 2015.

Date: 10/17/2016 (1371929)

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)
 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: DLQOR MR 2Q2016 - The system failed to monitor and/or report distribution
 disinfectant residuals to the TCEQ for the second quarter of 2016 within the
 required timeline.

* NOVs applicable for the Compliance History rating period 9/1/2011 to 8/31/2016

Appendix B

All Investigations Conducted During Component Period November 23, 2011 and November 23, 2016

(1294332)

Item 1 November 23, 2015** For Informational Purposes Only

(1371929)

Item 2 November 14, 2016 For Informational Purposes Only

(1375610)

Item 3 November 18, 2016 For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2011 and 08/31/2016.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
THE BURKE FOUNDATION
RN108344714**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2016-2025-PWS-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding THE BURKE FOUNDATION (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 20800 West Farm-to-Market Road 150 near Dripping Springs, Hays County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately five service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(69).
2. During a record review conducted on October 31, 2016 through November 18, 2016, an investigator documented that:
 - a. The Respondent did not collect a routine distribution water sample for coliform analysis for the months of August 2015 through March 2016 and did not issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect a routine distribution water sample for coliform analysis for the months of August 2015 through February 2016.

- b. The Respondent did not collect a set of repeat distribution total coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample for the month of June 2015.
- c. The Respondent did not collect five routine distribution coliform samples during the month following the total coliform-positive sample result for the month of July 2015 and did not issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect five routine distribution coliform samples during the month following a total coliform-positive sample result for the month July 2015.
- d. The Respondent did not submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director by the tenth day of the month following the end of each quarter for the third and fourth quarters of 2015 and the first and second quarters of 2016 and did not issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit a DLQOR for the fourth quarter of 2015.
- e. The Respondent did not collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the Executive Director for the January 1, 2016 through June 30, 2016 monitoring period.

II. CONCLUSIONS OF LAW

- 1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
- 2. As evidenced by Finding of Fact No. 2.a, the Respondent failed to collect a routine distribution water sample for coliform analysis and failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect a routine distribution water sample for coliform analysis, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A) and (f), and TEX. HEALTH & SAFETY CODE § 341.033(d).
- 3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to collect a set of repeat distribution total coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d).
- 4. As evidenced by Finding of Fact No. 2.c, the Respondent failed to collect five routine distribution coliform samples during the month following the total coliform-positive sample result and failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect five routine distribution coliform samples during the month following a total coliform-positive sample result, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A) and (f).

5. As evidenced by Finding of Fact No. 2.d, the Respondent failed to submit a DLQOR to the Executive Director by the tenth day of the month following the end of each quarter and failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit a DLQOR, in violation of 30 TEX. ADMIN. CODE §§ 290.110(e)(4)(A) and (f)(3) and 290.122(c)(2)(A) and (f).
6. As evidenced by Finding of Fact No. 2.e, the Respondent failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.117(c)(2)(A), (h), and (i)(1).
7. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of \$3,644 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent paid the \$3,644 penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 8 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: THE BURKE FOUNDATION, Docket No. 2016-2025-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:

- i. Begin complying with applicable coliform monitoring requirements by conducting routine coliform monitoring, collecting the required number of repeat distribution samples, collecting increased distribution coliform samples when required, and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six months of compliant monitoring and reporting;
 - ii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.110;
 - iii. Implement procedures to ensure that all necessary public notifications are issued in a timely manner to persons served by the Facility and a copy of each public notification is submitted to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122;
 - iv. Issue public notification regarding the failure to submit a DLQOR for the fourth quarter of 2015, the failure to collect a routine distribution water sample for coliform analysis for the months of August 2015 through February 2016, and the failure to collect five routine distribution coliform samples during the month following a total coliform-positive sample result for the month July 2015, and provide a copy of each public notification to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122;
 - v. Implement improvements to the Facility's process procedures, guidance, training, and oversight to ensure that all lead and copper tap samples are collected during the required sampling periods, analyzed, and reported to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.117; and
 - vi. Begin collecting the required number of lead and copper tap samples, have the samples analyzed, and report the results to the Executive Director within ten days following the end of each monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117. This provision will be satisfied upon the timely delivery of all lead and copper tap sampling results to the Executive Director for two consecutive compliant six-month monitoring periods.
- b. Within 45 days after the effective date of this Order, submit written certification of compliance with Ordering Provision Nos. 2.a.ii through 2.a.v, in accordance with Ordering Provision No. 2.f. The written certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.

- c. Within 90 days after the effective date of this Order, begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be submitted to:

DLQOR Coordinator
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- d. Within 225 days after the effective date of this Order, submit written certification of compliance with Ordering Provision No. 2.a.i, in accordance with Ordering Provision No. 2.f. The written certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.
- e. Within 285 days after the effective date of this Order, submit written certification of compliance with Ordering Provision No. 2.c, in accordance with Ordering Provision No. 2.f. The written certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.
- f. Within 410 days after the effective date of this Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.vi. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Drinking Water Special Functions Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-30870

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting,

lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

THE BURKE FOUNDATION
DOCKET NO. 2016-2025-PWS-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



6/9/17

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date

Steve Fournier

4-21-17

Name (Printed or typed)
Authorized Representative of
THE BURKE FOUNDATION

Executive Director
Title

☒ If mailing address has changed, please check this box and provide the new address below:

Not sure: PO Box 40
Driftwood, TX 78619

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.